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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,614	08/19/2003	Ramesh Raskar	MERL-1483	4946

7590 11/06/2006

Patent Department
Mitsubishi Electric Research Laboratories, Inc.
201 Broadway
Cambridge, MA 02139

EXAMINER

FUREMAN, JARED

ART UNIT	PAPER NUMBER
2876	

DATE MAILED: 11/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/643,614

Applicant(s)

RASKAR, RAMESH

Examiner

Jared J. Fureman

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-19 is/are allowed.
- 6) ☒ Claim(s) 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Receipt is acknowledged of the amendment, filed on 8/4/2006, which has been entered in the file. Claims 1-20 are pending.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the identification reader of claim 20 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Sitnik (US 6,300,880 B1).

Sitnik teaches a an identification reader (receivers 20, see figure 2 and column 21, line 9 - column 22, line 13), comprising: an optical transceiver (bar code reader/infrared transceiver 30) transmitting a predetermined optical signal (an optical signal to read a bar code, see step 91 in figure 8) and a radio transceiver receiving (via receiver electronics 25) an identification code (a channel assignment, for example, see step 102 in figure 8) transmitted (by central database server 10 through transmitter 16, see figure 1) when receiving the predetermined optical signal by an identification tag (bar code 34, see figure 2) (note that the bar code signal must be received, see step 92 in figure 8, prior to any other transmitting or receiving, such as steps 98/98 and step 102, respectively) (also see figures 1, 2, 7, 8; column 21, line 9 - column 22, line 14; and column 23, line 25 - column 24, line 26).

Response to Arguments

4. Applicant's arguments filed 8/4/2006, with respect to claim 20, have been fully considered but they are not persuasive.

Applicants argue that Sitnik does not teach a predetermined optical signal, shining a light on a barcode is not transmitting a predetermined optical signal (see page 13 of the amendment filed on 8/4/2006), the examiner respectfully disagrees. Claim 20 recites "... a predetermined optical signal ..." (see line 2), and thus, does not require the signal to contain any particular information, just transmitting a predetermined optical signal. Sitnik uses bar code reader/infrared transceiver 30, infrared LED 37 and photodetector 38 to send and receive optical signals. For example, the LED 37 is used to output infrared light to a bar code and photodetector 38 then detects the light reflected from the bar code. The infrared light from LED 37 can be considered a predetermined optical signal, since a pulse of light can be considered a predetermined optical signal. Sitnik also teaches the use of the bar code reader/infrared transceiver 30 to transmit/receive other optical signals (see steps 75-92 in figure 7).

Furthermore, the claim language "... when receiving the predetermined optical signal by an identification tag." (see lines 3-4, of claim 20) seems to set forth an intended use and/or functional language. It is noted that functional language does not define the invention over the prior art, when the prior art discloses the claimed structural limitations and is capable of performing the recited function (see MPEP 2114). Furthermore, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to

patentably distinguish the claimed invention from the prior art. If a prior art structure is capable of performing the intended use as recited in the preamble, then it meets the claim. See, e.g., *In re Schreiber*, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997). Descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulak*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). In this case, it does not appear as though the claim language "when receiving the predetermined optical signal by an identification tag" places any particular structural limitation on the claimed identification reader. Thus, any identification reader including an optical transceiver capable of transmitting a predetermined optical signal and a radio transceiver capable of receiving an identification code would meet the claimed limitations.

Applicants should note that while Sitnik may teach elements or method steps in addition to those recited in applicant's claims, all of applicant's claims use the transitional phrase "comprising", which is open-ended and does not exclude additional, unrecited elements or method steps (see MPEP 2111.03[R-2]).

For these reasons, it is believed that Sitnik teaches/suggests claim 20.

5. Applicant's arguments, see pages 9-15, filed 8/4/2006, with respect to the rejection of claims 1-19 have been fully considered and are persuasive. The 102(b)/103(a) rejections of claims 1-19 has been withdrawn.

Allowable Subject Matter

6. Claims 1-19 have been allowed over the prior art of record.
7. As mentioned above, applicant's arguments regarding claims 1-19 have been found persuasive. Thus, the reasons for allowance are set forth in the prosecution history (see applicant's arguments filed 8/4/2006 and 1/17/2006).

Conclusion


8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared J. Fureman whose telephone number is (571) 272-2391. The examiner can normally be reached on 8:00 am - 5:30 PM M-T, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jared J. Fureman
Primary Examiner
Art Unit 2876

October 30, 2006